

**Notice of Allowability**

**Application No.**

09/991,458

**Examiner**

Ashwin Mehta

**Applicant(s)**

STEVENS ET AL.

**Art Unit**

1638

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers filed 24 December 2003.
2. ☒ The allowed claim(s) is/are 1,12-19,21,38,40 and 42-45.
3. ☒ The drawings filed on 16 November 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                 |
| 2. <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)  | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>3092004</u> . |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date <u>12292003</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                               | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                                   |
|  | 9. <input type="checkbox"/> Other _____.  |

***Information Disclosure Statement***

1. The reference having the Cite No. R8, in the IDS submitted December 24, 2003, has been initialed, and the IDS signed. The other citations in that IDS have been lined through only because they appear in, and have been initialed in, a previously submitted IDS.

***Specification***

2. The substitute specification has been entered.
3. The objections to the specification have been overcome in light of the amendments.

***Claim Rejections***

4. The rejection of claims 12-21 and 39 under the judicially-created doctrine of obviousness-type double patenting is withdrawn, in light of the terminal disclaimer.
5. The rejection of claims 1-7, 19-21, 38, and 40 under 35 U.S.C. 101 for statutory type double patenting is withdrawn, in light of the claim amendments.
6. The rejection of claims 1-7, 12-21, 38-40, and 42-45 under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, is withdrawn, in light of the claim amendments or cancellations.
7. The rejection of claim 3 under 35 U.S.C. 112, 1<sup>st</sup> paragraph, is withdrawn in light of the claim amendment.

8. The rejection of claims 1-7, 12-21, 38-40, and 42-45 under 35 U.S.C. 112, 1<sup>st</sup> paragraph, is withdrawn, in light of the claim amendments or cancellations.

***Examiner's Amendment***

9. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with David Saliwanchik on March 9, 2004.

The application has been amended as follows:

In the claims,

1. A method for killing a pest having an alkaline gut compartment, wherein said pest is an insect or nematode, wherein said method comprises feeding said pest a compound which disrupts, within said pest, an organic solute transporter/ligand-gated ion channel protein to cause death of the pest, and wherein said compound is [selected from the group consisting of] L-methionine [and L-leucine].

Claims 6 and 7 have been cancelled.

In claim 18, the term, --said-- was inserted after "wherein".

38. A method for killing a pest having an alkaline gut compartment, wherein said pest is an insect or nematode, wherein said method comprises administering to said pest an effective amount [of] of L-methionine [or L-leucine] to cause death of the pest.

40. A method for killing a pest having an alkaline gut compartment, wherein said pest is an insect or nematode, wherein said method comprises inhibiting, within said pest, solute transport or ion channel activity to cause death of the pest, and wherein said inhibition is caused by feeding said pest [a compound selected from the group consisting of L-leucine and] L-methionine.

In claim 42, line 2, the term, --said-- was inserted before “pests”.

In claim 43, line 2, the article, “a” was deleted, and the recitation, -- that expresses an insecticidal toxin-- was inserted after “*thuringiensis*”.

10. Claims 1, 12-19, 21, 38, 40, and 42-45 have been allowed.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashwin Mehta whose telephone number is 571-272-0803. The examiner can normally be reached from 8:00 A.M to 5:30 P.M. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson, can be reached at 571-272-0804. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 for regular communications and 703-872-9307 for After Final communications. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 9, 2004



Ashwin D. Mehta, Ph.D.  
Primary Examiner  
Art Unit 1638